

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT
LB263

Hearing Date: Tuesday February 07, 2017
Committee On: Transportation and Telecommunications
Introducer: Transportation and Telecommunications
One Liner: Change provisions relating to vehicle certificates of title, registration, and license plates and provide for implementation of an electronic dealer services system by the Department of Motor Vehicles

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Bostelman, Briese, Friesen, Geist, Hilgers, Hughes, Murante, Smith
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

Mike Hybl
Rhonda Lahm
Loy Todd
Beth Bazyn Ferrell

Representing:

Transportation & Telecommunications Committee
Nebraska Department of Motor Vehicles
Nebraska New Car & Truck Dealers Association
NACO

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

The bill amends a number of sections of law related to the administration of motor vehicle titling and registration by the Nebraska Department of Motor Vehicles and is a part of the on-going process to revise laws administered by the department to enable the transition to the new Vehicle, Title, and Registration (VTR) computer system currently under development.

The focal point of the bill is section 36 which enacts a new provision of law that authorizes the Director of Motor Vehicles to implement an electronic dealer services system. This application would authorize a participating licensed motor vehicle dealer when a vehicle is sold to provide titling and registration services to purchasers including the collection of all required fees and taxes.

Participation in the system is voluntary on the part of any dealer and customers also may elect to continue to utilize the office of the county treasurer to conduct all transactions related to the purchase of a motor vehicle.

The Director of Motor Vehicles is directed to remove a participating dealer's eligibility to participate based on violations of the law and also prescribes privacy requirements for any participating dealer for the personal information obtained from customers who participate in the system.

The electronic dealer services system shall be implemented no later than January 1, 2021.

The bill amends a number of other sections of law to make reference to the new electronic dealer services option in title and registration statutes. The bill also makes the other following changes to titling and registration requirements for motor vehicles:

Amends the Political Subdivisions Tort Claims Act and the State Tort Claims Act to exempt a political subdivision from liability in the issuance of a titles by an approved dealer using the electronic dealer services system;

Changes from the 15th of the month to the 20th of the month when title fees are to be deposited with the State Treasurer from the county treasurer or Department of Motor Vehicles;

Changes from the 25th of the month to the 20th of the month when registration fees are to be deposited with the State Treasurer from the county treasurers;

Authorizes the Department of Corrections to manufacture license plates for the Department of Motor Vehicles as well as the county treasurers. Authorizes all classifications of license plates and vehicle registrations to be delivered by US Mail through a secure process;

Provides that a vehicle with tax situs in Nebraska may be titled and registered in any county; and

Provides that a vehicle registration may have the owner's address updated prior to its expiration.

The bill will become operative on January 1, 2019

Explanation of amendments:

The committee considered and adopted an amendment which accomplishes the following:

The amendment substitutes for the bill and revises the language of LB 263 as introduced and, in addition, adds the provisions of the following legislative bills to LB 263:

LB 54 (Schumacher) Change provisions related to unattended motor vehicles.

Section 56 of the Standing Committee Amendment

Testifiers for LB 54 (February 6, 2017)

Proponents:

Senator Paul Schumacher, Introducer

William Gumm, Self

Opponents: None

Neutral: None

LB 70 (Pansing-Brooks) Change provisions related to operator's license revocation.

Sections 57 and 58 of the Standing Committee Amendment

Testifiers for LB 70 (February 14, 2017)

Proponents:

Senator Patty Pansing-Brooks, Introducer

Bethany Heirigs, NCDAA

Joe Nigro, Nebraska State Bar Association/Lancaster County Public Defender

Opponents: None

Neutral: None

LB 143 (Friesen) Provide an exception for public power district motor vehicles to carry registration certificates.

Sections 27 and 52 of the Standing Committee Amendment

Testifiers for LB 143 (February 7, 2017)

Proponents:

Senator Curt Friesen, Introducer

Mike Donahue, OPPD

Opponents: None

Neutral: None

LB 294 (Smith) Provide for reciprocity agreements with a foreign country for mutual recognition of motor vehicle operator's licenses.

Section 56 of the Standing Committee Amendment

Testifiers for LB 294 (February 6, 2017)

Proponents:

Senator Jim Smith, Introducer

Opponents: None

Neutral: None

LB 460 (Smith) Change provisions regulating the transportation of clients of the Department of Health and Human Services.

Sections 73,74, 75, 76, 77, 78, and 79 of the Standing Committee Amendment

Testifiers for LB 460 (February 14, 2017)

Proponents:

Senator Jim Smith, Introducer

Calder Lynch, Nebraska Department of Health & Human Services

Opponents:

Alissa Kearn, Camelot Transportation

John Davis, Happy Cab Companies

Tara Paulson, Self

Neutral:

Tim Schram, Nebraska Public Service Commission

LB 164 (Geist) Change provisions relating to trailers, commercial motor vehicles, motor vehicle records disclosure and authorize the Department of Motor Vehicles to keep and sell registration and certificate of title records.

Sections 21, 32, 33, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 50, 51, 60, 61, 63, 65, 68, and 70 of the Standing Committee Amendment

Testifiers for LB 164 (January 24, 2017)

Proponents:

Senator Suzanne Geist, Introducer

Rhonda Lahm, Nebraska Department of Motor Vehicles

Korby Gilbertson, Property Casualty Insurers Association of America (PCI)

Tad Fraizer, American Insurance Association

Opponents: None

Neutral: None

LB 483 (Hilgers) Provide a rules of procedure exemption for the Public Service Commission.

Section 483 of the Standing Committee Amendment

Testifiers for LB 483 (February 21, 2017)

Proponents:

Senator Mike Hilgers, Introducer

Loel Brooks, Commission Bar

Tim Schram, Nebraska Public Service Commission

Andy Pollock, Nebraska Telecommunications Association; Rural Telecom Coalition of Nebraska; North Western Energy;

Nebraska Transportation Association

Jill Becker, Black Hills Energy

Opponents: None

Neutral: None

LB 418 (Breise) Update certain references to federal regulations regarding motor vehicles and motor carriers.

Sections 12, 26, 30, 34, 49, 54, 55, 59, 62, 64, 80, 81, and 82 of the Standing Committee Amendment

Testifiers for LB 418 (January 31, 2017)

Proponents:

Senator Tom Briese, Introducer

Gerry Krolkowski, Nebraska State Patrol

Opponents: None

Neutral: None

LB 459 (Smith) Change provisions relating to governance of the state-wide one-call notification center and provide for the establishment of best practices.

Sections 87, 88, and 89 of the Standing Committee Amendment

Testifiers for LB 459 (February 14, 2017)

Proponents:

Senator Jim Smith, Introducer

Regina Shields, State Fire Marshall

Nathan Stewart, Nebraska 811/Black Hills Energy

Michael Loeffler, Northern Natural Gas

Bradley Woehler, NUCA of Nebraska

Opponents: None

Neutral: None

Summary of the Standing Committee Amendment

The original provisions of LB 263 are amended with the addition of language (section 10 and 11 of the SCA) that provides that the owner of a motor vehicle more than 30 years old, which does not have a certificate title, may apply for issuance of a title when there have been no major component part replaced and the records of the Department of Motor Vehicles show that no title has been previously issued. A title may be issued following the presentation of a notarized bill of sale and proof a title inspection has been conducted. An applicant for a title shall pay a fee of \$25.

Original section section 36 of LB 263 is amended (Section 69 of the SCA). This section directs the Department of Motor Vehicles to implement the electronic dealer services system as an option for the issuance of title to, and the registration of motor vehicles, including the collection of fees and taxes. The section is amended by inserting a new subsection (2) which provides that any dealer participating in the electronic dealer system may charge a service fee not to exceed \$50 from any purchaser who elects to use the services of the system to title and register a vehicle.

Section 66 (LB 54) Amends section 60-6,168- unattended motor vehicles. This section currently provides that no motor vehicle shall be left unattended upon a highway without first stopping the motor, and locking and removing the key from the ignition. The section is amended to exclude any vehicle equipped with a keyless ignition from the duty to lock and remove the key from the ignition.

Sections 57 and 58 (LB 70) Amends sections 60-4,108 and section 60-4,109 (operation of a motor vehicle during a period of suspension, revocation, or impoundment). Current law provides that any person operating a motor during the period their operator's license is revoked or impounded shall, in addition to a criminal penalty, be subject to an additional period of license revocation.

Currently a person convicted for a first offense violation of this offense shall also be subject to an additional 1 year revocation of their operating privilege. The amendment provides that if a person convicted of a first offense violation of operating while their operator's license has been revoked or impounded may, at the discretion of the court, avoid the additional 1 year period of revocation.

Additionally, these sections currently provide that when an individual has been convicted of operating a motor vehicle while revoked, suspended, or impounded the additional period of revocation that shall be ordered pursuant to these sections shall be administered upon sentencing, final judgement of any appeal, or upon the date that any order of probation is revoked, whichever is later. The amendment also revises both sections by striking the qualifier "whichever is later".

Sections 27 and 52 (LB 143) The sections amend requirements related to "Public Power District" license plates by making clarification changes. Section 60-363 is amended to clarify that any vehicle registered with the public power district license plate shall not be required to carry the vehicle registration. Instead, the registration shall be kept at the principle place of business of the public power district. Section 60-3,229 is amended to provide that a trailer operated by any public power district maybe registered under any of the trailer classifications prescribed by that section.

Section 56 (LB 294) Amends section 60-483-administration of operator's license issuance by the Director of Motor Vehicles.

The section is amended by adding new language that provides that the Director of the Department of Motor Vehicles may enter into agreements with foreign countries that provide for the mutual recognition and reciprocal exchange of a valid operator's license issued by this state or a foreign jurisdiction, if the department determines that this state and such foreign government have comparable licensing standards. Any agreement entered into shall not include the reciprocal issuance of the commercial driver's license.

Sections 73, 74, 75, 76, 77, 78 and 79 (LB 460) Amends provisions of law related to the transportation of passengers by the Nebraska Public Service Commission (PSC).

Currently sections 75-303.01 (section 74), 75-303.02 (section 75), and 75-303.03 (section 76) provide the requirements for the transportation of individuals when the services are provided through the Department of Health and Human Services (DHHS).

Section 75-303.01 (section 74) and 75-311 (section 79) are amended to provide:

The DHHS, a Medicaid-managed care organization under contract with DHHS, or any agent working on the behalf of DHHS may contract for non-emergency medical transportation for Medicaid clients with a contract carrier authorized by the Public Service Commission pursuant to section 75-311(3).

Any contract carrier operating under the authority of section 75-311(3) (section 79) shall comply with DHHS requirements regarding training, driver standards, background checks, and the provision of service quality. The carrier shall comply with PSC requirements governing insurance, equipment, and background checks.

Section 75-311 is amended by adding a new subsection (3) which provides that any contract carrier providing service pursuant to section 75-303.01 shall be issued a contract carrier permit authorizing operations when the PSC finds, following notice and hearing, that the carrier is fit, willing, and able to perform the service, is able to comply with all other requirements, and the proposed operation will be consistent with the public interest by providing services designed to meet the distinct needs of DHHS, a Medicaid-managed care organization under contract with DHHS, or another agent working on DHHS's behalf.

Section 75-303.02 is amended to provide:

DHHS or any agency organized under the Nebraska Community Aging Services Act may contract for the transportation of clients with an entity which does not hold a certificate and is not otherwise exempt from PSC certification requirements when:

The contractor is the individual who will personally drive the vehicle to be used;

The compensation paid shall be at a rate no greater than the mileage reimbursement rate paid to state employees;

There is no regulated motor carrier serving the area in which the client needs transportation service. The regulated motor carrier, if there is one in the area, is incapable of providing the specific service required based upon such carrier's written statement or a finding made by the PSC. Or the regulated carrier cannot provide the service at the rate prescribed for in section 75-303.03 (see below).

Section 75-303.03 is amended to provide:

The PSC following consultation with DHHS is to adopt standards governing minimum liability insurance requirements, equipment standards, driver qualification requirements and the issuance and filing of notice for contractors utilized by the department or any agency organized under the Nebraska Community Aging Services Act.

The DHHS or any agency organized under the Nebraska Community Aging Services Act shall reimburse common and contract carriers of passengers at a rate not to exceed the maximum mileage rate paid to state employees multiplied by three. The maximum rate shall not apply when:

The transportation service occurs entirely within the corporate limits of a municipality;

The person is transported is disabled and requires specialized equipment; or the transportation service being provided is non-emergency medical transportation of Medicaid clients pursuant to section 75-303.01; and

DHHS is authorized to reimburse an individual for costs incurred in the transportation of a person eligible to receive transportation services if:

The individual has contracted with DHHS and provides service to the eligible person; and

The eligible person has chosen the individual providing transportation.

Reimbursement shall not be greater than the rate paid to state employees for mileage reimbursement and such transportation is deemed to not constitute the provision of transportation services for hire.

Sections 21, 32, 33, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 50, 51, 60, 61, 63, 65, 68, and 70 (These sections incorporate the provisions of LB 164 as amended and advanced to General File by the Committee).

These sections amend a number of provisions of law administered by the Department of Motor Vehicles:

Cabin Trailers

A number of sections involving the issuance of certificates of title and vehicle registration are amended by striking, and

eliminating, the defined term "Cabin Trailer". For purposes of these sections cabin trailers will be encompassed by reference to the defined term "Trailer";

Commercial Driver's License Disqualification

Provisions of the Commercial Driver's License Act are amended to provide that if the holder of a commercial driver's license is subject to multiple periods of disqualification, such disqualification periods, in compliance with federal law, shall be imposed consecutively and separately;

Motor Vehicle Accident Reports

Provisions of law related to motor vehicle accident reports are amended to provide that accident report information flowing between the Department of Roads, the Department of Motor Vehicles and the insurance industry may be transmitted electronically; and

Motor Vehicle Records Administration

The Department of Motor Vehicles is directed to maintain records related to the certificate of title and registration for motor boats, all-terrain vehicles, utility vehicles snowmobiles, and minibikes in the same manner as such records for motor vehicles. Additionally, such records shall be released to the public and have the same protections as provided under the Uniform Motor Vehicle Records Disclosure Act. Additionally, in-bulk purchases of records for motorboats, all-terrain vehicles, utility-type vehicles, snowmobiles, and minibikes maybe be obtained in the same manner as other motor vehicle records.

Section 72 (This section incorporates the provisions of LB 483 as advanced by the committee) Amends section 75-110, rules of procedure of the Nebraska Public Service Commission. The section is amended by the addition of a new subsection (2) which provides that for purposes of granting or denying a petition for intervention in a matter before the NPSC, the NPSC shall be exempt from the requirements of section 84-912.02 of the Nebraska Administrative Procedures Act.

Sections 12, 26, 30, 34, 49, 54, 55, 59,62, 64, 80, 81, 82, 83, 84, and 85 (These sections incorporate the provisions of LB 418 as advanced to General File by the Committee)

These sections, and the underlying LB 418, is the annual update of those federal regulations that have been adopted and incorporated by reference into Nebraska law for the following motor vehicle-related laws. The adoption date for each section of law is updated to those regulations in existence and effective as of January 1, 2017. Section 75-369.03 is also amended and increases the amount of civil fine penalties that can be assessed by the Superintendent of Law Enforcement and Public Safety for specified motor carrier violations and amends the intrastate hours of service requirements.

Section 12-Section 60-119.01- low-speed vehicle definition (titling)

Section 26- Section 60-336.01- low-speed definition (registration)

Section 30- Section 60-386- motor vehicle registration

Section 34- Section 60-3,113.04- handicapped/disabled parking permits

Section 49- Section 60-3,193.01- International Registration Plan

Section 54- Section 60-462.01- Motor Vehicle Operator's License Act

Section 55- Section 60-479.01- Motor Vehicle Operator's License Act, criminal background checks

Section 59- Section 60-4,147.02- commercial driver's license- hazardous materials endorsement

Section 62- Section 60-501- Motor Vehicle Safety Responsibility Act, low-speed vehicle definition

Section 64- Section 60-628.01- low-speed vehicle definition

Section 80- Section 75-363- federal Motor Carrier Safety Regulations, adoption

The section also amends the substantive provisions of the intrastate hours of service requirements to provide that the required period of off duty time under the intrastate rules shall be 10 consecutive hours off duty, rather than the current 8 hours.

Section 81- Section 75-364-federal Hazardous Material Regulations, adoption

Section 82- Section 75-366- federal Motor Carrier Safety Regulations/federal Hazardous Material Regulations, authority of law enforcement officers

Section 83- Section 75-369.03- Superintendent of Law Enforcement and Public Safety, imposition of civil penalties against motor carriers.

This section authorizes the Superintendent of Law Enforcement to impose civil penalties against a motor carrier or driver

for violations of the federal Motor Carrier Safety Regulations as adopted pursuant to section 75-363.

-Motor Carriers who knowingly allow, require, permit, or authorize a driver to violate any law or regulation relating to highway- rail crossings. The maximum civil penalty for a violation is increased from \$10,000 to \$15,474.

-Drivers violating an out-of-service-order. The civil penalty is changed from not less than \$2,500, but not more than \$5,000 for a first violation and less than \$5,100 but no more than \$7,500 for a second or subsequent violation to a civil penalty not less than \$2,985 for a first violation and not less \$5,970 for a second or subsequent offense.

-Motor carriers who knowingly allow, require, permit, or authorize the operation of a commercial motor vehicle in violation of an out-of-service order. The civil penalty is changed from not less than \$\$2,750 nor more than \$25,000 per violation to not less than \$5,391 nor more than \$29,849 per violation.

Section 84- Section 75-392-Unified carrier registration plan and agreement

Section 85-Section 75-303-Unified carrier registration plan and agreement

Sections 86,87,88 and 89 (These sections incorporate the provisions of LB 459) Amends provisions of the One-Call Notification Act.

Section 86- Amends section 76-2316- and strikes language requiring the State Fire Marshall to certify the state one call center.

Section 87- Amends section 76-2319- One- Call Board of directors, rules and regulations, selection of a vendor.

The One-Call Notification System Act authorizes the creation of a board of directors to oversee the operation of the statewide one-call notification center. The purpose of the act, and the center, is to establish a means by which excavators may provide notification to the operators of underground facilities prior to engaging in excavation activity.

The State Fire Marshall is charged with the responsibility of determining, through the adoption of regulations, the qualifications, appointment, retention, and composition of the board of directors of the one-call center.

The section is amended to provide that the State Fire Marshal may also promulgate regulations that prescribe requirements necessary for compliance with United States Department of Transportation programs, and prescribe best practices for the marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities. Any regulation prescribing a best practice shall first originate with the board of directors of the one-call center.

Section 88- Amends section 76-2320- selection of a vendor by the one-call board of directors. The section is amended by striking language requiring the State Fire Marshall to certify the center and review such certification every two years.

Section 89- Amends section 76-2325- One-Call violations. adds fiber optic telecommunications facility to the maximum penalty provided for under the act and increases the minimum penalty for violations.

Technical Sections

Section 93- Directions to the Revisor of Statutes

Section 94 Operative date of sections

Section 95- Repealer

Section 96- Repealer

Section 97- Repealer

NOTE: There are no provisions of law repealed outright by LB 263 as introduced or as amended by the standing committee amendment.

Section 98-Emergency Clause

Curt Friesen, Chairperson